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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of) GC Docket No. 92-52
)
Reexamination of the Policy)
Statement on Comparative)
Broadcast Hearings)

To: The Commission

COMMENTS OF SUSAN M. BECHTEL

1. Susan M. Bechtel submits, as comments in this rule making proceeding, the attached copy of the brief (without statutory appendices) dated October 25, 1991 filed with the Court of Appeals in the matter of Bechtel v. FCC, No. 91-1112 (D.C.Cir. 1992). In that document, Mrs. Bechtel sets forth (a) criticism of the "integration of ownership and management" criterion and (b) support for consideration of superior signal coverage as a more meaningful long-term criterion than the initial "paper" integration proposals not founded in real-world broadcasting experience.

2. As the Commission is aware, the Selbyville, Delaware comparative proceeding is currently pending before the Commission upon remand from the Court of Appeals. The arguments of Mrs. Bechtel are being and will continue to be advanced to the Commission in that remand proceeding. The arguments are also being presented here as comments regarding the need for change in the comparative hearing policies under consideration, without waiving Mrs. Bechtel's right to argue the invalidity of those policies in the Selbyville remand proceeding. Copies of these comments are

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being served on the other parties to the Selbyville remand proceeding.

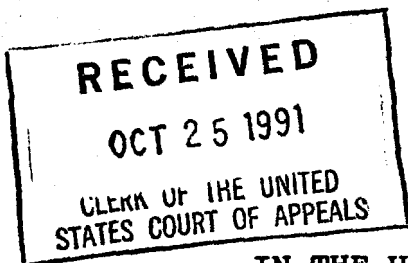
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THIS CASE IS SCHEDULED FOR
ORAL ARGUMENT ON NOVEMBER 25, 1991

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BECHTEL & COLE
FILE COPY

No. 91-1112

SUSAN M. BECHTEL,

Appellant,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Appellee

ANCHOR BROADCASTING LIMITED PARTNERSHIP,

Intervenor

And Consolidated Case No. 91-1116

On Appeal of Orders
of the Federal Communications Commission

*FINAL BRIEF OF APPELLANT SUSAN M. BECHTEL

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October 25, 1991
(Initially filed
August 6, 1991)

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CERTIFICATE AS TO
PARTIES, RULINGS AND RELATED CASES

The following information is submitted in compliance with Rule 11(a) of this Court.

A. Parties and Amici

(1) Parties appearing below are Anchor Broadcasting Limited Partnership (Anchor), Selbyville Broadcasting Co., Inc. (SBC), Galaxy Communications, Inc. (Galaxy) and Susan M. Bechtel (Mrs. Bechtel).

(2) Counsel represents Mrs. Bechtel, an individual.

(3) Parties in this Court are Mrs. Bechtel (appellant), Galaxy (appellant), Anchor (intervenor) and the Federal Communications Commission (appellee). To my knowledge there are no amici.

B. Rulings Under Review

The appellants seek review of the FCC's Memorandum Opinion and Order released February 8, 1991, Anchor Broadcasting Limited Partnership, 6 FCC Rcd 721. Said agency action reviewed a Decision issued by the FCC's Review Board released April 10, 1990, Anchor Broadcasting Limited Partnership, 5 FCC Rcd 2432 (Board Chairman Marino dissenting), which reviewed an Initial Decision issued by FCC Administrative Law Judge Joseph Chachkin released July 24, 1989, Anchor Broadcasting Limited Partnership, 4 FCC Rcd 5689.

C. Related Cases

The appeal of Mrs. Bechtel in 91-1112 has been consolidated with

the appeal of Galaxy in 91-1116. I am not aware of any other related cases before this Court or any other Court.

I certify that the foregoing information is true and correct to the best of my knowledge based on information reasonable available at this time.



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October 25, 1991

STATUTES AND REGULATIONS

This case involves mutually-exclusive applications to the FCC for a construction permit for a broadcast station, which are governed by the public interest provisions of Section 309 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. §309, reproduced in the Statutory Appendix.

JURISDICTION

This Court has jurisdiction pursuant to Section 402(b) of the Act, 47 U.S.C. §402(b), also reproduced in the Statutory Appendix, to hear an appeal taken by a party whose application for construction permit has been denied by the FCC.

STATEMENT OF THE CASE

This case involves a comparative hearing proceeding to award the construction permit for a new FM radio broadcast station in Selbyville, Delaware, which is located in the Ocean City, Maryland, area.

Comparative Criterion of Integration of Ownership Control into Management. The Commission's award of the construction permit in this case is based upon the agency's comparative criterion of "integration of ownership into management." JA 26. The premise of that criterion is that program service in the public interest is more likely to be served if the parties who own and control the radio station are the parties who manage the day-to-day operation of the station, thus bringing to bear on program operations their personal background and credentials, such as years of local residence, female ownership and minority ownership. Policy Statement on Comparative Broadcast Hearings, 1 FCC2d 393 (1965).

While radio station owners can bring their personal background and credentials to bear on station management and operations in a variety of ways, the Commission's "integration" requirements are esoteric, highly structured and unrealistic, and the instant appeal challenges the lawfulness of the Commission's refusal to consider any alternative means of achieving the same public interest objective.

Beginning in about 1981, applicants were invited to establish a two-tiered ownership structure in order to achieve maximum credit under the integration criterion. Anax Broadcasting, Inc., 87 FCC2d 483 (1981); see, also, Cleveland Television Corp. v. FCC, 732 F.2d 962 (D.C.Cir. 1984). This two-tiered structure often takes the form of a limited partnership. The routine is for the general partner(s) to seek full (or 100%) integration credit on the theory that the general partner(s) will manage the radio station and zero ownership-control is attributed to the limited partner(s), who will have a totally "passive" role in the venture. Under FCC directives, the requirements for a totally "passive" role are stringent, e.g., the limited partners may not communicate with the general partners regarding any aspect of the radio station operations. Ownership Attribution, 58 Rad.Reg.2d (P&F) 604 (1985). A corresponding concept of absolute control by the integrated parties is expected of corporate applicants who seek full (100%) integration credit for the voting stockholder(s) and therefore must treat nonvoting stockholder(s) and other parties to the corporation as totally "passive" investors and bystanders. E.g., Coast TV, 5

FCC Rcd 2751 (1990).

Three "integrated" applicants in this case below. The contrived efforts of applicants to seek "integration" credit are well illustrated by the three "integrated" applicants in this case below:

(1) Anchor Broadcasting Limited Partnership (Anchor). This applicant's integration was favored by the Administrative Law Judge (JA 8) and by the Commission in its final decision (JA 26), but not by a majority of the Commission's Review Board (JA 9-14). Anchor is a limited partnership consisting of four 25% partners, one general partner and three limited partners. JA 23. The general partner is Dr. Herman F. Stamps, a retired dentist. JA 46. The limited partners are two physicians and an attorney, having medical and law offices in Washington, D.C. JA 85, 149-151. The record does not reflect any history of residence within the service area of the radio station, nor any previous broadcast experience. JA 101, 108-111.

These four individuals previously filed another FCC application, challenging the license renewal of station WOOK-FM in Washington, D.C. JA 91. In that application, they also each had 25% interests, although the corporate form was employed. Id. Moreover, in that application, all four of them planned to be active in management, serving as a committee to oversee programs and policies. JA 94-95. While Dr. Stamps planned to become the station's "managing director," an experienced general manager was to be hired since neither Dr. Stamps nor his colleagues were

experienced broadcasters. JA 93. The WOOK-FM license renewal challenge was settled, after a ten-year proceeding, JA 92, and some of the proceeds of the settlement were, in effect, used to fund a portion of the expenses of the instant application. JA 166.

Apparently to conform to present FCC expectations for "integration" credit, the proposal in the instant application differs. The three limited partners and the general partner, who are very close friends dating back 25 to 30 years, have agreed in writing that there will be no communications between the general partner and the limited partners about the operation of the radio station. JA 27, 136-141, 148, 151, 167. In his testimony about this procedure, Dr. Stamps acknowledged that this was something other than the "real world." JA 137. At least one of the limited partners (the attorney) had not focused on this provision of the limited partnership agreement until he was examined at the hearing. JA 152-155. Notwithstanding the applicant's professed adherence to this FCC-prescribed procedure for attending to the financial and other aspects of the station operations, each of the four partners will receive his 25% share of operating profits, sustain his 25% share of operating losses, derive the benefit of his 25% share of the appreciated asset value of the radio station when it is sold and has an equal vote regarding such a sale and dissolution of the partnership. JA 27.

This vow of silence is not the only "non-real-world," highly-strained, contrived aspect of the effort of Anchor to gain full (100%) integration credit for Dr. Stamps. In the instant

application, Dr. Stamps now proposes to be his own general manager, even though he previously did not feel competent to do so in the WOOK-FM proceeding, and even though he still has no broadcast operating experience -- claiming that he has since read a lot. JA 108-111. He may, however, hire a "station manager", an "operations manager" and "consultants" as well. JA 117-128. Dr. Stamps proposes to move to the service area and work day-to-day full-time at the radio station, even though he has never worked full-time as an employee for any of his other investments. JA 111-114. Dr. Stamps purportedly will take on this full-time year-around job in the small and remote community of Selbyville in a seasonal resort area, even though he was 62 years of age when he testified in 1988; he currently is 65 years of age; he will be in his late sixties by the time this litigation is concluded and the Anchor station is built and on the air; he retired from his dental practice five years ago in obvious financial comfort; in his current life style he maintains homes in Virginia, Washington, D.C. and Cape Cod, Massachusetts; in his current life style he maintains a yacht in Baltimore; and in his current life style he travels abroad extensively, several times a year. JA 102-103, 106-107. Dr. Stamps projects that his integration term will last approximately two or three years. JA 133.

(2) Selbyville Broadcasting Co., Inc. (SBC). This applicant was not favored at any level by the FCC. SBC has not taken an appeal to this Court. SBC was a one-person corporation whose sole stockholder is Rita A. Capobianchi (Rita). JA 57. The record does

not reflect any history of residence in the service area of the radio station, nor any previous broadcast experience. JA 61.

The strained and contrived efforts to qualify for "integration" credit were these: The applicant's husband is a communications consulting engineer. JA 168. Rita works with her husband in the engineering practice full-time as the director of operations; she is a 25% stockholder of the engineering firm, of which her husband is a 51% stockholder. JA 169. The communications engineering background of her husband, and their record of working together successfully in the engineering practice, would seem to provide ideal credentials for at least some involvement of the husband in the operation of the radio station owned by his wife.

However, the applicant sought to isolate herself from her husband in this matter, not unlike the wall of silence Dr. Stamps and his colleagues have attempted to sell to the decider of this case, referred to above. At first, the engineering company paid some of her application costs (she said she made out the checks on her own, without her husband's knowledge), then later she reimbursed the engineering company (she said she made this reimbursement payment, also without her husband's knowledge). JA 170-185. Rita proposed to obtain housing in the service area of the radio station, and to live there Monday through Friday while she works full-time day-to-day as the general manager. JA 188-189. She proposed to commute back to the family residence in Bethesda, Maryland on weekends. Id. This would have thrown the full burden

of week-day care for three school age children, one of whom was only seven years old at the time of her testimony, on her husband and her mother. JA 188-189, 199. However, this decision that would disrupt the family life style in such a massive way was made entirely on her own; she did not tell her husband about her decision until long after she had filed the application; she never told her mother about her plans that directly involved her mother in daily care for the children. JA 49, 185-186, 189, 199-200.

At one point in time or another, Rita proposed full-time integration relative to three different applications, the instant application for Selbyville and two other applications for proposed radio stations in Virginia and South Carolina. JA 7, 187-188, 201-206.

(3) Galaxy Communications, Inc. (Galaxy). The integration of this applicant was favored by a majority of the Review Board (JA 16), but not by the Administrative Law Judge (JA 8) or by the Commission in its final decision below (JA 26). Galaxy is a corporation with two principals: Alexander Soroka is the sole stockholder, an officer and one of two directors; Gregory Lanier Wells is an officer and the other director. JA 64. The record does not reflect any history of local residence in the service area of the radio station until Mr. Soroka established at least a part-time residence there at or about the time the FCC application was filed. JA 50, 211-212, 230.

Strained and contrived efforts to qualify for "integration" credit exist for this applicant as in the case of Anchor and SBC.

Mr. Soroka is a retired employee of the Westinghouse corporation in Baltimore. JA 64. He has no previous broadcast experience. However, he has placed on his board of directors Mr. Wells, who does have such experience, serving as the comptroller of a group broadcaster with offices at the company's radio station in Baltimore, Maryland. JA 64, 207-210. Moreover, he initially placed a third person on his board of directors -- his son, who is employed as an engineer at a radio station. JA 216-229. While his son no longer serves on the board of directors, he resides in the same house as Mr. Soroka and obviously is readily accessible for consultation and advice. JA 213-214. ¹ Given these circumstances, one would expect testimony from Mr. Soroka to the effect that he would draw upon Mr. Wells and his son for advice and assistance in the operation of the Selbyville radio station. Instead, Mr. Soroka's testimony attempts to create another illusion of a "wall of silence." He refused to concede that Mr. Wells has useful broadcast experience and he refused to acknowledge that Mr. Wells' position as a member of the board of directors gives him a significant voice in the policies and operation of the corporation. JA 221-224. Without any broadcast operating experience of his own, Mr. Soroka maintained he will perform the duties of general manager of the station entirely by himself, and for times when he is not present at the station, will hire someone

¹ During the period Mr. Soroka was prosecuting his application for a Selbyville station, his son filed an application for a second radio station in the Ocean City area, to be licensed to Ocean Pines. This application was subsequently dismissed. JA 220-221.

else to run the station in his absence, eschewing turning to Mr. Wells or his son for any assistance. JA 192-198, 225.

The Ownership-Management Proposal of Susan M. Bechtel (Mrs. Bechtel). The record reflects that Mrs. Bechtel resides in Potomac, Maryland with her husband and attorney herein, Gene A. Bechtel. JA 77. All other testimony was excluded from evidence, to which exception was taken and from which this appeal is taken. JA 86-90.

The excluded material reflects a "real world" approach to the ownership and oversight of the operation of the proposed radio station. Mrs. Bechtel (like Mr. Stamps, Rita and Mr. Soroka) has no previous broadcast experience. JA 77. However (unlike Mr. Stamps, Rita and Mr. Soroka), Mrs. Bechtel will hire an experienced general manager to head up the day-to-day operations of the station. JA 77. Moreover (unlike Rita and Mr. Soroka) she proposes to consult with experienced radio broadcasters who are longtime friends and also to consult with her husband, a career communications attorney. Id.

Mrs. Bechtel currently spends a substantial amount of time at a residence maintained within the service area of the proposed station, primarily in the summer months. Id. In future years as her children reach college age and beyond, the amount of time spent at this residence will most likely increase. Id. At the time of the hearing three years ago, her three children were ages 19, 17 and 14 (their ages today are 22, 20 and 17, respectively). Id. By the time this litigation is concluded and Mrs. Bechtel constructs the

radio station and commences operation, all such children will be at or well beyond college age. Id. Her supervision of the operation of the radio station will take place both while she is residing in the service area, with on-site supervision, and while she is residing in her principal residence located in Potomac, Maryland. Id. While Mrs. Bechtel intends to oversee the operation of the radio station in an effective way as just described, she does not propose to uproot her family life, move permanently to the service area or spend any set minimum hours of week in on-site supervision. Id.

The excluded testimony also establishes that Mrs. Bechtel (alone among all the applicants) has a long history of local residence. She has vacationed in the proposed service area of the station regularly for some forty years. JA 77. Since 1982, she and her husband have owned a summer residence within the station's service area. Id. This is maintained as a family residence, not a rental property. Id.

Comparative Signal Coverage. Mrs. Bechtel proposes to serve a larger area and a greater population than any of the other applicants. She proposes to serve a population of 40,465, which is 21% greater than the population to be served by Anchor (33,350) and 2% greater than the population to be served by Galaxy (39,753). Such areas and populations presently receive at least five existing AM or FM radio broadcast services. JA 3.

SUMMARY OF ARGUMENT

I. The Commission's idea that the "integration" of ownership into management following its prescribed formulae and requirements will achieve greater public interest benefits than oversight of management by ownership in other ways has become bankrupt. This was a bureaucratically conceived idea which has never been tested or proven in actual practice, even though the FCC has had some 26 years of performance to test the idea in practice, if it had wished to do so. The Commission's "integration" concept has produced application after application of contrived, unpersuasive and strained "integration" scenarios that are at odds with normal, rational ways of doing business in the real world. The Commission's own articulation of its requirements is constantly fluctuating and is so fraught with subjective and ill-defined concepts that the process, per se, places the agency and the parties beyond the boundaries of reasoned agency decision-making. Unyielding adherence to this legal no-man's land, and rejection of any consideration of Mrs. Bechtel's rational, real-world plan to achieve the same public interest objective while avoiding the unworkable contrivances of the "integrated" applicants, was arbitrary, capricious and unlawful.

II. In bright contrast to the dreary regulatory program under the "integration" criterion, the Commission's policy to employ frequencies to provide optimum signal coverage and technical service has been highly effective. This regulatory program has the enormous benefit of permanence. While the initial ownership of a

broadcast station is transitory and eventually does change, the facilities, signal and technical coverage are not temporary or ephemeral. Here, Mrs. Bechtel would serve 21% more population than will the Intervenor, Anchor. This is a lasting public interest legacy that vastly outweighs any public interest value in awarding the permit to Anchor based upon integrated ownership considerations, flawed in their inception and in all events of highly limited duration.

ARGUMENT

I.

The Commission's "non-real-world" integration criterion has become bankrupt;
Mrs. Bechtel's "real-world" ownership supervision will achieve the public interest objectives of that criterion.

For many years the Commission has looked to "integration" of ownership into day-to-day management as a criterion giving rise to an expectation of effectuation of program service in the public interest. Policy Statement on Comparative Broadcast Hearings, supra. This concept has led to a massive volume of case law with artificial distinctions and ground rules which are exceeding difficult to comprehend. For example, 100% integration will be compared to 90% integration, but will not be compared to, say, 85% or 80% integration, even though all such percentages amount to controlling interests. The New Continental Broadcasting Co., 88 FCC2d 830 (1981); Cannon Communications Corp., 10 FCC2d 169 (1985). As noted earlier, limited partners cannot communicate with general partners concerning any of the details of station operation which they (the limited partners) are funding -- usually in the

entirety or nearly so. Ownership Attribution, supra (1985). Nonvoting stockholders may put up all of the funds to prosecute the applications, construct the station and finance station operations but it is vital that a voting stockholder (having no personal investment) open and maintain the corporate bank account, speak to the tower owner about renting space for the antenna and perform other ministerial chores (under expert legal guidance) during the short period of time in which the FCC application is prepared. E.g., Coast TV, supra.

Integration that is imbued with malafides will be disallowed altogether; integration that is merely "defective" will be partially accepted and partially disallowed. Susan S. Mulkey, 3 FCC Rcd 590 (1988). Forty hours a week integration is decisively superior to 35 hours a week integration. The difference between the two is calculated arithmetically by a formula analogous to something called the Hirschman-Herfindahl Index. Omaha TV 15, Inc., 4 FCC Rcd 730 (1988). Integration as a "business manager" is credited, integration as an "office manager" is not. Compare Grand Broadcasting Co., 36 FCC 619 (1964) and policy statement on Comparative Broadcast Hearings, supra, with, e.g., Payne Communications, Inc., 6 Rad.Reg.2d (P&F) 1323 (1986); Doylan Forney, 3 FCC Rcd 6330 (1988). An individual licensee of a daytime AM station will receive a comparative credit if he or she files for a local FM permit as an individual, but will receive a comparative demerit if he or she files for a local FM permit through a wholly-owned corporation. FM Channel Assignments (Increased Availability), 101 FCC2d 638 (1985), on reconsideration, 59 Rad.Reg.2d (P&F) 1221

(1986). The case discussion of spousal attributions for purposes of integration is convoluted, confusing and unstable. E.g., Absolutely Great Radio, Inc., 92 FCC2d 1183, (ALJ 1982), reversed, 92 FCC2d 1171 (Rev. Bd. 1983), reversed, 95 FCC2d 1023 (Commission 1983), recon. denied, 56 RR2d 251 (1984), reversed, sub nom. Ventura Broadcasting Co. v. FCC, 765 F2d 184 (D.C. Cir. 1985), decision on remend, 104 FCC2d (1986).

And so on. Each case depends on the overall factual mosaic, viewed largely in subjective terms. Objective standards and customary legal discipline are difficult to apply to the process. Rulings by different Judges vary. The Review Board often reverses Initial Decisions. The Commission reverses the Review Board with some frequency. The fine points of the case law are continually shifting, sometimes in far reaching ways, and often the changed case law is applied retroactively to applications that were filed when earlier case law was in effect. These uncertainties render comparative license cases a highly risky and speculative legal process that -- in and of itself without more -- in all likelihood places the parties and the FCC beyond the bounds of reasoned agency decision-making. Motor Vehicle Manufacturer's Association v. State Farm Mutual Auto Ins. Co., 463 U.S. 29 (1983).

But there is more, much more. When the Commission's policies on this score were adopted in the 1965 policy statement, there may have been grounds for expecting that "ownership integration" would be carried out on an ongoing and meaningful basis. At that point in time the Commission had a very strong policy against trafficking in broadcast licenses. Applications for Voluntary Assignments or

Transfers of Control, 32 FCC 689 (Commission 1962) (adopting three year minimum holding period); see numerous case adjudications before the Commission and in the Courts, supported by Congressional leaders, examples of which are cited in the Concurring Statement of Commissioner Rivera in Transfer of Broadcast Facilities, 52 Rad.Reg.2d (P&F) 1081, 1092 (Commission 1982). The Commission's expectation was that its licensees would hold the broadcast licenses and operate the stations on a long term basis. Moreover, two-tiered applications had not yet come into vogue, offering the ability for one party to claim "integration" credit and another party to fund the venture, an FCC-inspired shot-gun marriage of the most tenuous kind, guaranteed to disintegrate in the early stages of operation, if indeed it ever got off the ground at all.

Then, in 1981 the two-tiered invitation for phony integration schemes was encouraged, Anax Broadcasting, Inc., supra, and in 1982 the Commission abolished its strong policy against trafficking in licenses, permitting sales and purchases of broadcast properties without any holding period requirement or an anti-trafficking policy of any kind. Transfer of Broadcasting Facilities, supra. This has inaugurated an era of licensee stewardship in which broadcast licenses are bought and sold like grain futures. The current "grain futures" era of licensee responsibility is illustrated by such activities in the past decade as the purchase, dismantling and resale, for billions of dollars of profits, first of the Wometco chain of radio and television stations (built over a 30 year period), then of the Storer chain of stations (also built over a 30 year period), all in the space of several years, by an

entity (Kohlberg, Kravis, Roberts & Co.) whose sole line of business is to buy and sell corporations for rapid turnover profits. See, Wometco Enterprises, Inc., 55 Rad.Reg.2d (P&F) 1545 (1984); Storer Communications, Inc., 61 Rad.Reg.2d (P&F) 454 (1986). Under current rules, in the event an applicant wins the construction permit in a comparative hearing based on its integration proposals, the applicant need operate the station for a period of only one year before sale of the property. 47 C.F.R. §73.3597(a)(1) ².

In today's regulatory environment, in 80-90% of the cases ³ the Commission's integration policy does not become a factor in the ultimate selection of the licensee because of settlement of the case, and in those cases where the Commission's integration policies are a factor in the selection of the licensee, the period of integrated ownership of the station relied upon by the Commission in selecting that licensee may be changed by the

² The 1965 policy statement indicates that integration commitments should be "permanent" and the Commission's Review Board has made some effort to adhere to the notion of a long-term commitment. E.g., Tele-Broadcasters of California, Inc., 58 Rad.Reg.2d (P&F) 223, 232, n. 43 (1985) (three years); Signal Ministries, Inc., 60 Rad.Reg.2d (P&F) 1700, 1711, n. 16 (1986) (two years); Cuban-American Limited, 2 FCC Rcd 3264, 3268 (1987) (two years). However, to our best information and belief, the practice of the Commission's transfer staff has been that broadcast licenses are fully and routinely alienable after one year in accord with §73.3597(a)(1) of the rules. Indeed, under the Administrative Procedure Act, members of the public are entitled to rely on the one-year provision of this published agency regulation. 5 U.S.C. §552(a)(1)(C) and (D).

³ Percentage based on FCC study reported in Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, 5 FCC Rcd 4050 (1990).

licensee at will after a period of one year. A strong motive exists for the licensee to sell the property at the end of the first year. For one thing, broadcast properties often have a market value substantially in excess of the cost of acquiring the licenses and building and operating the station for a period of one year, and a quick profit can be made at the end of that first year. For another thing, by and large integration proposals are unnatural concepts at odds with the real world of operating broadcast stations. In the real world of operating broadcast stations, if management of day-to-day operations is truly placed in the hands of a person without previous broadcast experience (such as Dr. Stamps, Rita, or Mr. Soroka) without a professional general manager, in today's high-tech broadcasting and in competition with savvy existing radio operators, this can be a disaster. One year of that experience is likely enough.

We invite the Commission and opposing parties, in reply, to cite actual instances since the 1981-1982 time period⁴ when an applicant which prevailed in a comparative hearing based upon its integration proposals actually constructed, owned and operated the broadcast station employing the integration proposals in the manner represented to the Commission for a period substantially exceeding one year. We extended such an invitation in our briefs below. There have been no takers. A recent case illustrates our point. The Commission spent a number of years, and this Court heard and

⁴ The two-tiered structure for integration credit was given acceptance in 1981, Anax Broadcasting, Inc., supra, and the three-year rule was rescinded in 1982, Transfer of Broadcast Facilities, supra.